

BOARD OF ENVIRONMENTAL PROTECTION
Meeting Minutes

July 20, 2006

A meeting of the Board of Environmental Protection was held on Thursday, July 20, 2006 at the Holiday Inn / Ground Round, Augusta, Maine. Chairman Matt Scott called the meeting to order at 9:00 a.m. with the following individuals present:

Board: Nancy Anderson, Denis Culley, M. Wing Goodale, Donald Guimond, Richard Gould, Virginia Plummer, Matt Scott, and Nancy Ziegler.

Absent: Elizabeth Ehrenfeld and Ernest Hilton

<u>Staff:</u>	Bureau of Land and Water Quality	Brian Kavanah
	Bureau of Remediation and Waste Management	John James

Others: David P. Littell, Commissioner
Peggy Bensinger, Assistant Attorney General
Cynthia S. Bertocci, BEP Executive Analyst
Terry Hanson, Administrative Assistant

(Meeting adjourned at approximately 12:15 p.m.)

I. DEPARTMENTAL

A. COMMISSIONER'S COMMENTS:

Ozone: Maine exceeded the Federal Ozone Standard on Sunday evening (midnight) at Cadillac Mountain in Acadia. Other monitoring stations in the Acadia area did not show exceedances. Because of the time and elevation of the system on Cadillac, the impacts are deemed to be directly related to out-of-state transport. If midcoast Maine experiences three more violations this summer, the midcoast area will not meet attainment standards.

Clean Air Act: The federal administration has proposed a nation-wide 30 million dollar cut in funding for Section 105 of the Federal Clean Air Act. Congress is considering a 22 million dollar cut which could result in a \$170,000 dollar cut for Maine's Ozone monitoring program which would eliminate 2 positions and equipment upgrades.

Blue Ribbon Commission on Solid Waste Management: The Governor's Blue Ribbon Commission named its membership: Senator John Martin, Co-Chair, former Senator Tom Sawyer, Kevin Roach – Eco Maine (formerly Regional Waste Systems); Representative Robert Duchesne, Co-Chair; Representative Joanne Twomey; Representative Lillian O'Brien and Greg Lauder – Municipal Review Committee. The Commission anticipates convening its first meeting sometime in August, and will meet up to ten times. It is anticipated that the Commission will conduct an initial review of solid waste matters in general

Petition for Rulemaking: Commissioner Littell attended a second meeting with the petitioners seeking to initiate a rulemaking proceeding to establish a moratorium on the use of construction demolition debris for fuel. The meeting resulted in the petitioners agreeing to forward their request for a moratorium to the Governor's Blue Ribbon Commission on Solid Waste.

Casco Bay: The Governor will be attending a press event with Bob Varney, US Environmental Protection Agency (EPA), announcing a no-discharge zone approval for Casco Bay. In addition to that announcement, the EPA's research vessel "The Bold" will be in port for visitors to tour. Board members are welcomed to attend.

HoltraChem: Commissioner Littell also informed the Board that the Governor will be conducting a press event related to the clean-up of the HoltraChem site.

QUESTIONS/COMMENTS:

Chairman Scott communicated his thoughts on the development of a research fund (paid for by generators) to address solid waste management issues including environmental impacts. Board member Ziegler supported this concept.

Board member Denis Culley voiced his concerns with future landfill expansions that will be needed for the disposal of bottom ash (noting that ash from waste incinerators/boilers is classified as special waste) and impacts related to the contamination of virgin wood bottom ash.

Board member Virginia Plummer suggested that the Board continue developing its draft list of concerns associated with the burning of CDD at the end of today's regular agenda.

B. CHAIRMAN'S COMMENTS:

- C. EXECUTIVE ANALYST COMMENTS:** Kennebec River: A pre-hearing conference regarding petitions for eel and fish passage at the 4 Kennebec River dams was held on July 19, 2006. She noted that the list of applications accepted for processing in this meeting's Board packet contains several condition compliance applications for FPL Energy's Shawmut, Lockwood and Weston dams. At yesterday's conference parties agreed to hold the schedule for a public hearing in abeyance until the condition compliance orders have been processed by the Department; because this process may serve to limit the scope of the public hearing.

D. BOARD CALENDAR: Reviewed

E. DEPARTMENTAL ORDERS:

Board member Anderson asked about an Overboard Discharge (OBD) application at North Haven.

The Board's Executive Analyst explained that at the time of property transfer or license renewal, DEP makes a determination as to whether a septic system can be installed. However, in the case of license renewals, if the State does not have funding to aid in the installation of the subsurface system, the OBD can remain in place.

Commissioner Littell also noted that the law change provided a sliding scale used for reimbursement which is based on a person's ability to pay; saving the State money and providing for assistance to those who need it most.

Department staff confirmed that fewer than 1,500 OBD's exist in the State. The trigger for an alternatives review is through property transfer or renewal. If review of alternatives to an OBD determines that a sub-surface system can be installed but there is no funding; the Department will issue a renewal for the OBD.

F. EXECUTIVE SESSION: None

II CONSENT AGENDA ITEMS

1. BEP Minutes, June 15, 2006 (approval)
Board voted on a motion to approve as presented (8-0-0-2)

Board members Nancy Anderson, Denis Culley, M. Wing Goodale, Richard Gould, Donald Guimond, Virginia Plummer, Matt Scott and Nancy Ziegler voted to support the motion. Board members Elizabeth Ehrenfeld and Ernest Hilton were absent.

Board voted on a motion to approve consent agenda items 2, 3, 4, 5, and 6 as presented (8-0-0-2)

Board members Nancy Anderson, Denis Culley, M. Wing Goodale, Richard Gould, Donald Guimond, Virginia Plummer, Matt Scott and Nancy Ziegler voted to support the motion. Board members Elizabeth Ehrenfeld and Ernest Hilton were absent.

2. JAY Y. MCCRUM, DARRELL E. MCCRUM, DAVID B. MCCRUM, WADE S. MCCRUM AND ROBERT W. LUNNEY d/b/a J&D MCCRUM., Mars Hill – Administrative Consent Agreement and Enforcement Order (BLWQ – Water)
3. TOWN OF CASTINE, Castine – Administrative Consent Agreement and Enforcement Order (BLWQ – Water)
4. JOHN CUSHING d/b/a CUSHING CONSTRUCTION, Readfield – Administrative Consent Agreement (BLWQ – Water)
5. B&B ENTERPRISES, INC., Milbridge – Administrative Consent Agreement and Enforcement Order (BRWM)
6. HUBER ENGINEERED WOODS, L.L.C, Easton – Administrative Consent Agreement (BAQ)

III. Regular Agenda

1. CHAPTER 870, LABELING OF MERCURY-ADDED PRODUCTS / AMENDMENT
(post to written public comment)
Staff: John James, Bureau of Remediation and Waste Management

The Board voted (8-0-0-2) on a motion to post amendments to Chapter 870, Labeling of Mercury-Added Products to 30-day written comment establishing September 1, 2006 as the deadline for receipt of comments. The vote was taken pursuant to 38 M.R.S.A. Section 341-D(1-B) and 1661 et seq.

Board members Nancy Anderson, Denis Culley, M. Wing Goodale, Richard Gould, Donald Guimond, Virginia Plummer, Matt Scott and Nancy Ziegler voted to support the motion. Board members Elizabeth Ehrenfeld and Ernest Hilton were absent.

2. ANDROSCOGGIN RIVER APPEAL / FIRST PROCEDURAL ORDER (appeal by Natural Resources Council of Maine)
Staff: Cynthia S. Bertocci, BEP Executive Analyst

The Board voted (4-3-1-2) on a motion to deny the appeal of the Natural Resource Council of Maine regarding distribution of the Department's Fact Sheet associated with the draft recommended license modification for International Paper's Maine Pollutant Discharge Elimination Permit and Waste Discharge License. The vote was taken pursuant to 38 M.R.S.A. 341-D(4) and 06-096 CMR Chapter 2.

Board members Donald Guimond, Richard Gould, Virginia Plummer and Matt Scott voted to support the motion. Board members Nancy Anderson, Denis Culley and Nancy Ziegler voted opposed. Board member M. Wing Goodale abstained. Board members Elizabeth Ehrenfeld and Ernest Hilton were absent.

BOARD TO CONDUCT A SITE VISIT: 10:00 A.M.

Kennebec River Dams // Lockwood, Hydro Kennebec, Shawmut and Weston Hydro

Note: The site visit of Kennebec River dams was postponed.

Solid Waste Management: Following a brief review by Commissioner Littell of the statutory duties of the Governor's Solid Waste Blue Ribbon Commission, the Board members made a preliminary list of solid waste management issues to convey in a letter to the Blue Ribbon Commission on Solid Waste Management. The Board directed the Executive Analyst to draft a letter for discussion at a future Board meeting.

Next Regular Board Meeting – Thursday, August 3, 2006 – Holiday Inn, Augusta